

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2474

House Bill No. 1805*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 76, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a specific profession regulated under this title is granted by a licensing authority;

(2) "Licensing authority" means any state agency with the authority to impose training, education, or licensure fees to practice in a profession;

(3) "Licensure fee" means a fee imposed by a licensing authority on persons licensed to practice a profession for the privilege of providing goods or services;

(4) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP); and

(5) "State agency" means a state board, agency, or commission attached to the division of regulatory boards, as listed in § 4-3-1304(a).

(b)

(1) Any licensing authority that requires a license for persons to practice in a profession shall waive all initial licensure fees for low-income persons.



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(2)

(A) Persons seeking a waiver of initial licensure fee requirements shall apply to the appropriate licensing authority in a format prescribed by the authority.

(B) The licensing authority shall process the application within thirty (30) days of its receipt from the applicant.

(3) All licensing authorities to which this section applies shall promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a specific profession regulated under this title is granted by a licensing authority;

(2) "Licensing authority" means any state agency with the authority to impose training, education, or licensure fees to practice in a profession;

(3) "Licensure fee" means a fee imposed by a licensing authority on persons licensed to practice a profession for the privilege of providing goods or services;

(4) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP); and

(5) "State agency" means a state board, agency, or commission attached to the division of health related boards, as listed in § 68-1-101(a)(8).

(b)

(1) Any licensing authority that requires a license for persons to practice in a profession shall waive all initial licensure fees for low-income persons.

(2)

(A) Persons seeking a waiver of initial licensure fee requirements shall apply to the appropriate licensing authority in a format prescribed by the authority.

(B) The licensing authority shall process the application within thirty (30) days of its receipt from the applicant.

(3) All licensing authorities to which this section applies shall promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 140, Part 3, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a profession regulated under this part is granted by the board;

(2) "Licensure fee" means a fee imposed by the board on persons licensed to practice a profession for the privilege of services; and

(3) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP).

(b)

(1) When a license is required for persons to practice in a profession under this part, the board shall waive all initial licensure fees for low-income persons.

(2)

(A) Persons seeking a waiver of initial licensure fee requirements shall apply to the board in a format prescribed by the board.

(B) The board shall process the application within thirty (30) days of its receipt from the applicant.

(3) The board shall promulgate rules to effectuate the purposes of this section.

SECTION 4. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2019, the public welfare requiring it.

Amendment No. _____

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Comm. Amdt. _____

AMEND Senate Bill No. 1781*

House Bill No. 1848

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 71-5-105, is amended by deleting subdivisions (a)(3)(B), (C), and (D) in their entireties and substituting instead the following:

(B) Establish, in consultation with the comptroller of the treasury and the Tennessee Health Care Association (THCA), rules for an acuity and quality-based reimbursement methodology for nursing facility services paid for by the bureau of TennCare under the rules of the department and as designated and certified by the department. Payment determination components shall include acuity adjusted direct care, non-acuity adjusted direct care, quality, administration, fair market value capital, a cost-based component, and an inflation index factor. The inflation index factor that shall be the most recent Skilled Nursing Facility without Capital Market Basket Index as published by IHS Global Insight (IHS Economics) or other index as may be agreed to by the bureau of TennCare, the comptroller of the treasury, and THCA should this index cease to be produced. The commissioner may establish the maximum amount to be paid to nursing facilities, consistent with the requirements of federal law and § 71-5-124(b);

SECTION 2. Tennessee Code Annotated, Section 71-5-1002, is amended by deleting subsection (h) in its entirety and substituting instead the following:

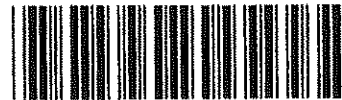
(h) The fund shall be used exclusively for the following purposes:

(1) To make expenditures for nursing facility services under the

TennCare program for FY 2018-2019 at the full rates for the specified fiscal year



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as provided for under bureau of TennCare rules relative to the acuity-and quality-based reimbursement system and in accordance with § 71-5-105(a)(3)(B);

(2) To provide funding for the implementation of an acuity-based reimbursement system that shall include at a minimum a quality performance component for nursing facility services and a nursing rate component. The nursing rate component shall be adjusted by the average medicaid case-mix of the facility utilizing the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) Resource Utilization Group-Version 4 (RUG-IV), 48-Grouper model;

(3) To pay nursing home covered services covered for medicaid beneficiaries within medicare upper payment limits, as negotiated with the bureau of TennCare. The upper payment limit of all nursing homes shall be calculated by the bureau of TennCare using the higher of the cost-based or prospective payment system approach in accordance with 42 C.F.R. 447.272; and

(4) Not later than June 30, 2018, a one-time transfer in the amount of fifteen million one hundred seventy-three thousand one hundred twenty-five dollars (\$15,173,125) shall be made from the nursing home trust fund to the bureau of TennCare. The payment equals the amount of TennCare funds that were used in fiscal years 2014-2015 and 2015-2016 to fund nursing home expenditures due to a budgetary restriction on the amount of nursing home fees that could be used.

SECTION 3. Tennessee Code Annotated, Section 71-5-1003, is amended by deleting the date "July 1, 2017" where it appears throughout subsection (c) and substituting instead the date "July 1, 2018"; and is further amended by deleting the date "June 30, 2018" where it appears throughout subsection (c) and substituting instead the date "June 30, 2019"; and is

further amended by deleting in subdivision (c)(4) the words "FY 2017-2018" and substituting instead the words "FY 2018-2019".

SECTION 4. Tennessee Code Annotated, Section 71-5-1003, is amended by deleting subdivision (c)(3) and substituting instead the following:

Any licensed nursing home that is licensed on July 1, 2018, and provided forty thousand (40,000) or greater medicaid patient days for the twelve (12) months ending December 31 of the prior year shall pay an assessment rate equal to two and one-half percent (2.50%) of net patient service revenue divided by all non-medicare patient days. The facility shall pay the per diem rate for each of its non-medicare days.

SECTION 5. Tennessee Code Annotated, Section 71-5-1003, is further amended by deleting subsection (f).

SECTION 6. Tennessee Code Annotated, Section 71-5-1004, is amended by deleting the section and substituting instead the following language:

71-5-1004.

(a)

(1) A specified amount of the funding for nursing facility (NF) services shall be set aside during each fiscal year for purposes of calculating a quality-based component of each NF provider's per diem payment as a quality incentive component, which shall be in addition to quality informed aspects of the NF reimbursement methodology.

(2) At the outset of the implementation of these acuity and quality-based reimbursement system, the amount of funding set aside for the quality-based component of the reimbursement methodology for nursing facilities shall be no less than forty million dollars (\$40,000,000) or four percent (4%) of the total projected fiscal year expenditures for NF services, whichever is greater.

(3) In each subsequent year, the amount of funding set aside for the quality-based component of the reimbursement methodology for nursing facilities

shall increase at two (2) times the rate of inflation of the index factor. Index factor inflation shall be calculated from the midpoint of the prior state fiscal year to the midpoint of the new state fiscal year.

(4) This annual quality-based component index factor adjustment shall continue until such time that the quality-based component of the reimbursement methodology for nursing facilities constitutes ten percent (10%) of the total projected fiscal year expenditures for NF services. Once the quality-based component of the reimbursement methodology constitutes ten percent (10%) of the total projected fiscal year expenditures for NF services, it shall then increase or decrease at a rate necessary to ensure that the quality-based component of the reimbursement methodology remains at ten percent (10%).

(5) All noted minimum quality-based component thresholds and index factor inflationary adjustments are made prior to consideration of the budget adjustment factor (BAF).

(b)

(1) The base-year annualized medicaid resident day-weighted median costs and prices shall be rebased at an interval no longer than three (3) years after a new base year period has been established. The new base year median costs and prices will be established using the most recently audited or desk reviewed cost reports that have a cost reporting period greater than six (6) months, with a cost report end date eighteen (18) months or more before the start of the rebase period.

(2) Cost reports issued a disclaimer of opinion during the audit process or cost reports containing substantial issues, including incomplete filing, during the desk review process, as solely determined by the comptroller of the treasury, will be excluded from the median and price calculations.

(3) Only audited or reviewed cost reports available prior to the July 1 rate setting will be considered in the median and price calculations.

(c)

(1) The initial quality outcome measures and point values established for the NF reimbursement system implemented on July 1, 2018, shall be based upon the structure of the QUILTSS criteria established by the bureau of TennCare on August 5, 2014. The bureau of TennCare may establish quality outcome measures and performance benchmarks by rulemaking consistent with the provisions of this section.

(2) Quality outcome measures and performance benchmarks for each measure shall not be modified for the first three (3) fiscal years of reimbursement unless agreed to by TennCare and the Tennessee Health Care Association (THCA). After the initial three (3) year period, quality outcome measures, performance benchmarks for each measure, and point values shall be established in consultation with THCA. Any modifications to such criteria shall be established through rulemaking and shall not be changed for another three (3) year period.

(d) Any submissions by any facility relating to documentation of and participation in the quality-based component of the reimbursement methodology for nursing facilities shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. However, nothing in this rule shall be construed to make immune from discovery or use in any judicial or administrative proceeding information, record, or documents that are otherwise available from original sources kept in the facility, and would otherwise be available to a litigant through discovery requested from the facility. The confidentiality provisions of this subsection (d) shall also not apply to any judicial or

administrative proceeding contesting the determination of the bureau of TennCare regarding the facility's quality component reimbursement.

SECTION 7. Tennessee Code Annotated, Section 71-5-1005(b), is amended by deleting the second sentence of the subsection and substituting instead the following language:

However, § 71-5-1413 shall be the exclusive authority for rulemaking by the bureau of TennCare regarding the initial rules regarding the acuity-based nursing home reimbursement system and any subsequent modifications to the nursing home reimbursement system.

SECTION 8. Tennessee Code Annotated, Section 71-5-1006, is amended by deleting in subsection (c)(1) the date "July 1, 2017" and substituting instead "July 1, 2018".

SECTION 9. Tennessee Code Annotated, Section 71-5-1010, is amended by deleting in subsection (a) the date "June 30, 2017" and substituting instead "June 30, 2019".

SECTION 10. Tennessee Code Annotated, Section 71-5-1413, is amended by deleting subsection (c) in its entirety.

SECTION 11. This act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 1781*

House Bill No. 1848

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting the following language from SECTION 1:

or other index as may be agreed to by the bureau of TennCare, the comptroller of the treasury, and THCA should this index cease to be produced.

and substituting instead the language:

or other index as may be agreed to by the bureau of TennCare and the comptroller of the treasury, in consultation with THCA, should this index cease to be produced.

AND FURTHER AMEND by deleting the following language from subdivision (c)(2) of SECTION 6:

unless agreed to by TennCare and the Tennessee Health Care Association (THCA).

and substituting instead the following:

unless agreed to by TennCare in consultation with the Tennessee Health Care Association (THCA).



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Amendment No. _____

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Comm. Amdt. _____

AMEND Senate Bill No. 1881*

House Bill No. 2083

by adding the following preamble after the caption:

WHEREAS, on January 16, 2018, the bureau of TennCare issued a change to their Preferred Drug List as to the duration of prescription opioids that the bureau of TennCare will pay for on behalf of first time and non-chronic opioid users; and

WHEREAS, the quantity of opioids that the bureau of TennCare program will pay for on behalf of these patients consists of 15 days of medication in a 180-day period; and

WHEREAS, nursing homes or their patients will be required to pay for prescriptions beyond the 15-day limit when patients are prescribed opioids beyond 15 days as a nursing home could be cited for abuse under federal guidelines; and

WHEREAS, this notice is ostensibly to address the risk of long-term opioid use for TennCare members, the policy is in opposition to the patient's need as determined by the patient's doctor; and

WHEREAS, this notice actually means that if a patient's doctor prescribes more than the bureau of TennCare authorizes for a nursing home patient, someone else must pay for the patient's medication because under federal regulations, nursing homes must administer prescribed medications and relieve pain for short-term and long-term patients; now, therefore, **AND FURTHER AMEND** by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:



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71-5-157. Notwithstanding any other law, when the medical assistance program under this part is the payer source for prescription medications, the bureau of TennCare shall pay for any opioid prescribed by a nursing home patient's physician with respect to the amount of opioids and the duration of their use when prescribed for a patient that is a medical assistance recipient and residing in a nursing home.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

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AMEND Senate Bill No. 2203

House Bill No. 1925*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 6, Part 6, is amended by adding the following as a new section:

(a) As used in this section:

(1) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental illness:

(A) Has been committed by a court to detention for involuntary mental health treatment under this chapter at least twice during the preceding thirty-six (36) months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six (36) months preceding the date of initial detention of the current commitment cycle; provided, that time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six-month calculation;

(B) Is unlikely to voluntarily participate in outpatient treatment with an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior;

(C) Is unlikely to survive safely in the community without supervision;



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(D) Is likely to benefit from less restrictive alternative treatment;
and

(E) Requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time; and

(2) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting that includes the services described in this section.

(b) In addition to any authorized action under § 33-6-502, a court of competent jurisdiction, including a mental health court, may order a proposed patient who has threatened violence against the patient's self or other persons to receive assisted outpatient mental health treatment upon finding that the conditions of § 33-6-502(1)-(3) have been met.

(c) Before ordering an outpatient treatment plan pursuant to this section, the court shall comply with subsections (d)-(h).

(d)

(1) A person who is authorized to file a complaint under § 33-6-504 may file a petition with a court of competent jurisdiction seeking assisted outpatient mental health treatment under this section for a proposed patient who has threatened violence against the patient's self or other persons. For a petition under this section, a court may order the patient to receive an involuntary outpatient evaluation in lieu of other evaluations authorized under this chapter.

(2) An involuntary outpatient evaluation may be conducted by a physician or a professional designated under § 33-6-427(a) or (b). The evaluation shall include involvement or consultation with the agency or facility that will provide monitoring or services under the proposed less restrictive alternative treatment

order. If the petition is for an involuntary outpatient evaluation and the person is being held in a hospital emergency department, the person may be released once the hospital has satisfied federal and state requirements for appropriate screening and stabilization of patients.

(e)

(1) A proposed outpatient treatment plan, developed pursuant to this section by a physician or a professional designated under § 33-6-427(a) or (b) who has examined the proposed patient no more than ten (10) days prior to the entering of an order pursuant to this part, shall be presented to the court in writing. The plan shall include all services the examining physician or a professional designated under § 33-6-427(a) or (b) recommends that the proposed patient receive, and for each such recommended service, identify an appropriate community-based provider that has agreed to provide it.

(2) If the proposed outpatient treatment plan includes counseling and treatment to address acts of violence or threats of violence, it may include a provision requiring relevant testing; provided, that the clinical basis of the physician or a professional designated under § 33-6-427(a) or (b) for recommending such plan provides sufficient facts for the court to find:

(A) That such person has a history of violent acts or threats of violence against the person or others that is clinically related to the mental illness; and

(B) That such testing is necessary to prevent a relapse or deterioration that would be likely to result in serious harm to the person or others.

(3) The examining physician or a professional designated under § 33-6-427(a) or (b) shall:

(A) Provide an opportunity to actively participate in the development of the assisted outpatient mental health treatment plan to the proposed patient, the treating physician or a professional designated under § 33-6-427(a) or (b), if any, and, upon the request of the proposed patient, any other individual significant to the proposed patient; and

(B) Make reasonable efforts to gather information that may be relevant in the development of the treatment plan from the proposed patient's family or significant others.

(f) At all stages of a proceeding commenced under this section, the proposed patient shall have the right to be represented by counsel. If neither the patient nor others provide counsel, the court shall appoint counsel for the proposed patient. Upon request of the proposed patient, the court shall order an independent examination by a physician or a professional designated under § 33-6-427(a) or (b) only when retained by the proposed patient.

(g)

(1) Upon receipt of a petition for which assisted outpatient mental health treatment may be an option, the court shall fix the date for a hearing. Such date shall be no later than ten (10) days from the date such petition is received by the court excluding Saturdays, Sundays, and holidays. Adjournments shall be permitted only for good cause shown. In granting adjournments, the court shall consider the need for further examination of the proposed patient and the potential need to provide assisted outpatient mental health treatment expeditiously. The court shall cause the proposed patient, any other person to whom notice is due under this chapter, the petitioner, the physician or a professional designated under § 33-6-427(a) or (b) whose affirmation or affidavit accompanied the petition, and such other persons as the court may determine to be advised of such date. Upon such date, or upon such other date to which the

proceeding may be adjourned, the court shall hear testimony and, if it is deemed advisable and the proposed patient is available, examine the proposed patient in or out of court. If the proposed patient does not appear at the hearing, and appropriate attempts to elicit the attendance of the proposed patient have failed, the court may conduct the hearing in the proposed patient's absence. In such case, the court shall set forth the factual basis for such determination.

(2) If the affidavit or affirmation of the physician or a professional designated under § 33-6-427(a) or (b) accompanying the petition indicates that the proposed patient has not submitted to an examination in the ten (10) days prior to the filing of the petition, the court may request the proposed patient to submit to an examination by a physician or a professional designated under § 33-6-427(a) or (b) appointed by the court. If the proposed patient does not consent and the court finds reasonable cause to believe that the allegations in the petition are true, the court may order law enforcement officers to take the proposed patient into custody in accordance with § 33-6-618 and transport the patient to a hospital for examination by a physician or a professional designated under § 33-6-427(a) or (b). Transportation will be conducted in accordance with parts 4 and 9 of this chapter. The subject may be detained for the period required to complete the examination, but not more than forty-eight (48) hours. The physician or a professional designated under § 33-6-427(a) or (b) whose affirmation or affidavit accompanied the petition may perform such examination of the proposed patient if the physician or a professional designated under § 33-6-427(a) or (b) is privileged or otherwise authorized by such hospital to do so. If such examination is performed by another physician or a professional designated under § 33-6-427(a) or (b), the examining physician or a professional designated under § 33-6-427(a) or (b) may consult with the physician or a professional designated under § 33-6-427(a) or (b) whose affirmation or affidavit accompanied

the petition as to whether the subject is in need of assisted outpatient mental health treatment. Upon completion of the examination, the subject shall be released and the examining physician or a professional designated under § 33-6-427(a) or (b) shall report the findings of the examination to the court. The court shall not hold a hearing on the petition unless and until the examining physician or a professional designated under § 33-6-427(a) or (b) submits to the court:

(A) An affidavit or affirmation stating that the physician or a professional designated under § 33-6-427(a) or (b) concurs that the proposed patient is in need of assisted outpatient mental health treatment; and

(B) A proposed assisted outpatient mental health treatment plan for the proposed patient, developed by the examining physician or a professional designated under § 33-6-427(a) or (b), and conforming to the requirements of subsection (e).

(3) The court shall not order assisted outpatient mental health treatment unless an examining physician or a professional designated under § 33-6-427(a) or (b) who has personally examined the proposed patient no more than ten (10) days before the filing of the petition and recommends assisted outpatient mental health treatment, testifies at the hearing. Such physician or a professional designated under § 33-6-427(a) or (b) shall testify to:

(A) The facts and clinical determinations that support the allegations that the proposed patient is in need of assisted outpatient mental health treatment; and

(B) The proposed assisted outpatient mental health treatment plan, the rationale for each component of such plan, and whether each such component is the least restrictive available alternative to serve the clinical needs of the proposed patient; and

(C) A history of medication compliance.

(4) The proposed patient shall be afforded an opportunity to present evidence, to call witnesses on the patient's behalf, and to cross-examine adverse witnesses.

(5) Unless the proposed patient requests a public hearing, the hearing shall be confidential and a report of the proceedings shall not be released to the public or press.

(h)

(1) If after hearing all relevant evidence, the court does not find by clear and convincing evidence that the proposed patient is in need of assisted outpatient mental health treatment, the court shall not order outpatient treatment under this section and shall order inpatient care and treatment under § 33-6-502 or make other dispositions as authorized by law.

(2) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the proposed patient is in need of assisted outpatient mental health treatment, the court may order the proposed patient to receive assisted outpatient mental health treatment for an initial period not to exceed six (6) months. In fashioning the order, the court shall specifically make findings by clear and convincing evidence that the ordered treatment is the least restrictive alternative treatment appropriate and feasible for the proposed patient, and that community resources and a willing treatment provider are available to support such treatment. The order shall state an assisted outpatient mental health treatment plan, which shall include all categories of assisted outpatient mental health treatment that the proposed patient is to receive, but shall not include any such category that has not been recommended in both the proposed written treatment plan and the testimony provided to the court.

(3) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the proposed patient is in need of assisted outpatient mental health treatment and that the treatment recommended by the examining physician or a professional designated under § 33-6-427(a) or (b) is in whole or in part appropriate, but the court does not find by clear and convincing evidence that community resources and a willing treatment provider are available to provide such treatment, the court shall state such findings of fact on the record and deny assisted outpatient mental health treatment without prejudice and may order such other treatment or commitment as authorized by law.

(4) An order for less restrictive alternative treatment under this section must identify the services the person will receive. The court may order additional evaluation of the person if necessary to identify appropriate services.

(5) The petitioner shall cause a copy of any court order issued pursuant to this section to be served personally, or by mail, facsimile, or electronic means, upon the assisted outpatient and all service providers identified in the treatment plan.

(i) In addition to any other right or remedy available by law with respect to the order for assisted outpatient mental health treatment, either party to the order may apply to the court, on notice to the other party and all others entitled to notice, to stay, vacate, or modify the order.

(j) Subject to available funding resources, treatment resources, as defined in § 33-1-101, shall provide services to a person in need of assisted outpatient mental health treatment who is subject to a less restrictive alternative treatment order under this section when:

(1) The person is enrolled in medical assistance under title 71, chapter 5;

or

(2) The person is not enrolled in medical assistance under title 71, chapter 5, and does not have other insurance that can pay for the services, but treatment resources have identified adequate available resources to provide the services.

(k) Less restrictive alternative treatment may include the following services as approved by the court:

- (1) Assignment of a care coordinator;
- (2) An intake evaluation with the provider of the less restrictive alternative treatment;
- (3) A psychiatric evaluation;
- (4) Medication management;
- (5) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;
- (6) A transition plan addressing access to continued services at the expiration of the order;
- (7) An individual crisis plan;
- (8) Psychotherapy;
- (9) Nursing; and
- (10) Substance abuse counseling.

(l) The treatment provider may modify the treatment plan according to the treatment needs of the assisted outpatient and provide notice to the court and petitioner.

(m) Within thirty (30) days prior to the expiration of an order for assisted outpatient mental health treatment, the original applicant, if the petitioner retains the status of an authorized petitioner pursuant to this chapter, or, in the absence of a timely petition by the original petitioner, any other person authorized to petition pursuant to this chapter, may apply to the court to order continued assisted outpatient mental health treatment and the court may order continued assisted outpatient mental health treatment

for a period not to exceed six (6) months from the expiration date of the current order if the court finds by clear and convincing evidence that the assisted outpatient mental health treatment continues to meet the criteria in this section. If the court's disposition of such petition does not occur prior to the expiration date of the current order, the current order shall remain in effect for up to an additional thirty (30) days without further action of the court. If the court's disposition of such petition does not occur within thirty (30) days after the expiration date of the current order, the order for assisted outpatient mental health treatment shall terminate. The procedures for obtaining any order pursuant to this subsection (m) shall be in accordance with this section.

(n) Section 33-6-607 shall apply to the costs incurred for services ordered under this section.

(o) An assisted outpatient's substantial failure to comply with the order of the court shall constitute reason for a physician or a professional designated under § 33-6-427(a) or (b) to determine whether the assisted outpatient is subject to emergency detention under § 33-6-401 and shall give rise to the authority under § 33-6-402 for such physician or a professional designated under § 33-6-427(a) or (b) to take custody of the assisted outpatient. Failure to comply with an order of assisted outpatient mental health treatment shall not be grounds for a finding of contempt of court or for non-emergency involuntary detention under this title. Nothing in this section precludes the use of detention by law enforcement officers under § 33-6-402.

(p) The commissioner of mental health and substance abuse services is authorized to promulgate rules to implement this section in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2019, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2048

House Bill No. 2020*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 13, is amended by adding the following as a new section:

68-11-1310.

(a) The following records received by the department or the attorney general and reporter from the recipients or applicants of a certificate of public advantage for a cooperative agreement issued pursuant to this part shall not be subject to disclosure pursuant to title 10, chapter 7, part 5:

- (1) Operating and capital budgets;
- (2) Existing and future business plans other than any plans, and any modifications to those plans, that are required to be submitted to the state pursuant to a certificate of public advantage or application for a certificate of public advantage;
- (3) Financial audit working papers as defined in § 4-3-304(7);
- (4) Contracts or agreements with payors and payor pricing information;
- (5) Physician recruitment plans and contracts or agreements with physicians;
- (6) Contracts or agreements with vendors;
- (7) Complaints, including hotline complaints and open investigations of such complaints; and



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(8) Employee personnel files, including performance evaluations, disciplinary actions, individual compensation amounts, and employment contract terms not otherwise publicly available.

(b) Records set forth in subsection (a) may contain trade secrets as defined in § 47-25-1702. The state shall notify in writing the recipient or applicant of a certificate of public advantage for a cooperative agreement at least seven (7) business days before any intended disclosure of such records. The recipient, applicant, or third party may petition the department pursuant to § 4-5-223 for a declaratory order to determine if disclosure would cause the loss of a trade secret. Any contested case convened in response to the petition shall be conducted as set forth in title 4, chapter 5, part 3; however, the provisions of § 4-5-325 shall not be applicable. Records subject to the petition shall not be disclosed until the review process in title 4, chapter 5, part 3 is completed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.

Amendment No. _____

Signature of Sponsor

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2621

House Bill No. 2159*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Elderly and Vulnerable Adult Protection Act of 2018."

SECTION 2. Tennessee Code Annotated, Section 39-15-501, is amended by adding the following as new subdivisions:

() "Abandonment" means the knowing desertion or forsaking of an elderly or vulnerable adult by a caregiver under circumstances in which there is a reasonable likelihood that physical harm could occur;

() "Abuse" means the infliction of physical harm or psychological injury on an elderly or vulnerable adult;

() "Confinement":

(A) Means the knowing restriction of movement of an elderly or vulnerable adult by a caregiver. Restricting one's movement includes, but is not limited to, the use of force, medication, intimidation, or restraint; and

(B) Does not include restricting an elderly or vulnerable adult's movement for the safety of the elderly or vulnerable adult as directed under current medical supervision;

()

(A) "Neglect" means:

(i) The failure of a caregiver to provide the care, supervision, or services necessary to maintain the physical and psychological health of



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an elderly or vulnerable adult, including, but not limited to, the provision of food, water, clothing, medicine, shelter, medical services, a medical treatment plan prescribed by a healthcare professional, basic hygiene, or supervision that a reasonable person would consider essential for the well-being of an elderly or vulnerable adult;

(ii) The failure of a caregiver to make a reasonable effort to protect an elderly or vulnerable adult from abuse, neglect, or exploitation by others;

(iii) Abandonment; or

(iv) Confinement; and

(B) Neglect can be the result of repeated conduct or a single incident;

() "Physical harm" means physical pain or injury, regardless of gravity or duration;

() "Psychological injury" means the infliction of emotional or mental anguish or an injury to the intellectual functioning of an elderly or vulnerable adult as evidenced by an observable or measurable reduction in the elderly or vulnerable adult's intellectual function;

() "Serious physical harm " means physical harm of such gravity that:

(A) Would normally require medical treatment or hospitalization;

(B) Involves acute pain of such duration that it results in substantial suffering;

(C) Involves any degree of prolonged pain or suffering; or

(D) Involves any degree of prolonged incapacity;

() "Serious psychological injury" means a psychological injury of such gravity as would normally require psychological or medical treatment;

SECTION 3. Tennessee Code Annotated, Section 39-15-506, is amended by deleting subdivision (a)(1) and substituting instead the following:

(a)

(1) Following a conviction for a violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-509(a)-(c), or § 39-15-510, or at the discretion of the court for a conviction of § 39-15-509(d), the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion on the registry pursuant to title 68, chapter 11, part 10.

SECTION 4. Tennessee Code Annotated, Section 39-15-506, is amended by deleting subdivision (b)(1) and substituting instead the following:

(b)

(1) In addition to any other punishment that may be imposed for a violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-509, or § 39-15-510, the court shall impose a fine of not less than five hundred dollars (\$500) for Class A or Class B misdemeanor convictions, and a fine of not less than one thousand dollars (\$1,000) for felony convictions. The fine shall not exceed the maximum fine established for the appropriate offense classification.

SECTION 5. Tennessee Code Annotated, Title 39, Chapter 15, Part 5, is amended by adding the following new sections:

39-15-507.

(a) It is an offense for a person to knowingly abuse an elderly or vulnerable adult.

(b) The offense of abuse of an elderly adult is a Class E felony.

(c) The offense of abuse of a vulnerable adult is a Class D felony.

39-15-508.

(a) A person commits the offense of aggravated abuse of an elderly or vulnerable adult who knowingly commits abuse pursuant to § 39-15-507, and:

(1) The act results in serious psychological injury or serious physical harm;

(2) A deadly weapon is used to accomplish the act;

(3) The abuse is committed by two (2) or more persons; or

(4) The abuse results in serious bodily injury.

(b) In order to prosecute and convict a person for a violation of subdivision (a)(1), it is not necessary for the state to prove the elderly or vulnerable adult sustained serious bodily injury as required by § 39-13-102, but only that the abuse resulted in serious psychological injury or serious physical harm as defined in § 39-15-501.

(c) A violation of subdivision (a)(1) is a Class C felony.

(d) A violation of subdivision (a)(2)-(4) is a Class B felony.

39-15-509.

(a) It is an offense for a caregiver to knowingly neglect an elderly or vulnerable adult, so as to adversely affect the person's health or welfare.

(b) The offense of neglect of an elderly adult is a Class E felony.

(c) The offense of neglect of a vulnerable adult is a Class D felony.

(d) If the neglect is a result of abandonment or confinement and no injury occurred, then the neglect by abandonment or confinement of an elderly or vulnerable adult is a Class A misdemeanor.

39-15-510.

(a) A caregiver commits the offense of aggravated neglect of an elderly or vulnerable adult who commits neglect pursuant to § 39-15-509, and the act:

(1) Results in serious psychological injury or serious physical harm; or

(2) Results in serious bodily injury.

(b) In order to prosecute and convict a person for a violation of subdivision

(a)(1), it is not necessary for the state to prove the elderly or vulnerable adult sustained

serious bodily injury as required by § 39-13-102, but only that the neglect resulted in serious psychological injury or serious physical harm as defined in § 39-15-501.

(c) A violation of subdivision (a)(1) is a Class C felony.

(d) A violation of subdivision (a)(2) is a Class B felony.

39-15-511.

(a) Any person having reasonable suspicion that an elderly or vulnerable adult is suffering or has suffered abuse, neglect, or financial exploitation shall report such abuse, neglect, or financial exploitation to adult protective services pursuant to title 71, chapter 6, or to a local law enforcement agency.

(b) Any person who fails to make a report required by subsection (a) commits a Class A misdemeanor.

(c) Upon good cause shown, adult protective services shall cooperate with law enforcement to identify those persons who knowingly fail to report abuse, neglect, or financial exploitation of an elderly or vulnerable adult.

(d) Upon commencement of criminal prosecution of abuse, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general a complete and unredacted copy of adult protective services' entire investigative file.

(e) Upon return of a criminal indictment or presentment alleging abuse, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general the identity of the person reporting the abuse, neglect, or financial exploitation.

SECTION 6. Tennessee Code Annotated, Section 39-13-202(a)(2), is amended by deleting the language "kidnapping" and substituting instead the language "kidnapping, aggravated abuse of an elderly or vulnerable adult, aggravated neglect of an elderly or vulnerable adult".

SECTION 7. Tennessee Code Annotated, Section 40-11-150(k)(1), is amended by deleting the language "§ 71-6-119, involving physical harm or abuse in which the alleged victim is an adult of advanced age as those terms are defined in § 71-6-102" and substituting instead the language "§ 39-15-507, § 39-15-508, § 39-15-509, or § 39-15-510 involving abuse, aggravated abuse, neglect, or aggravated neglect".

SECTION 8. Tennessee Code Annotated, Section 40-35-313(a)(1)(B)(i)(c), is amended by deleting the language "§ 71-6-117, or § 71-6-119" and substituting instead the language "§ 39-15-508, or § 39-15-510".

SECTION 9. Tennessee Code Annotated, Section 40-35-313(a)(3)(A), is amended by deleting the language "on or after July 1, 2004" and substituting instead the language "on or after July 1, 2004, and prior to July 1, 2018, or charged with a violation of § 39-15-507 or § 39-15-509 on or after July 1, 2018".

SECTION 10. Tennessee Code Annotated, Section 71-6-124, is amended by adding the following as a new subsection:

(f) For purposes of this section, "adult" means an elderly adult or vulnerable adult as defined in § 39-15-501.

SECTION 11. Tennessee Code Annotated, Section 71-6-124, is amended by deleting the language "§ 71-6-117 or § 39-15-502" wherever it appears and substituting instead the language "§ 39-15-502, § 39-15-507, § 39-15-508, § 39-15-509, or § 39-15-510".

SECTION 12. Tennessee Code Annotated, Sections 71-6-117 and 71-6-119, are deleted in their entireties.

SECTION 13. Tennessee Code Annotated, Section 71-6-118, is amended by deleting the section and substituting instead the following:

71-6-118.

(a) The identity of a person who reports abuse, neglect, or financial exploitation as required under this part or title 39, chapter 15, is confidential and may not be revealed except to the district attorney general upon return of a criminal indictment or

presentment alleging abuse, neglect, or financial exploitation of an elderly or vulnerable adult, or upon an order by a court with jurisdiction under this part for good cause shown.

(b) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part or title 39, chapter 15, to disclose, receive, make use of, authorize or knowingly permit, participate, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report of abuse, neglect, or financial exploitation under this part, directly or indirectly derived from the records, papers, files, or communications of the department of human services or divisions thereof acquired in the course of the performance of official duties.

(c)

(1) When necessary to protect elderly or vulnerable adults in a healthcare facility licensed by any state agency, such information, reports, and investigations may be disclosed to any agency providing licensing or regulation for that facility; however, the information, reports, and investigations shall retain the protection of subsection (b) when disclosed to such agency and may not be disclosed to, or used by, any other person.

(2) Notwithstanding subsections (a) and (b), adult protective services shall:

(A) Report to law enforcement or public health authorities any information from its investigations or records regarding illness, disease, injuries, abuse, neglect, or financial exploitation obtained in the course of an investigation;

(B) Provide to the district attorney general a complete and unredacted copy of adult protective services' entire investigative file and

records upon the commencement of a criminal prosecution for abuse, neglect, or financial exploitation of an elderly or vulnerable adult; and

(C) Provide to the district attorney general the identity of the person reporting instances of abuse, neglect, or financial exploitation upon the return of a criminal indictment or presentment alleging abuse, neglect, or financial exploitation of an elderly or vulnerable adult.

(d) Nothing in this section shall preclude the district attorney general from complying with the continuing duty to disclose evidence under the rules of discovery in a criminal prosecution.

(e) A knowing violation of subsection (a) or (b) or subdivision (c)(1) is a Class B misdemeanor.

SECTION 14. For the purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2312*

House Bill No. 2608

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 3, Part 11, is amended by adding the following language as a new, appropriately designated section:

As a part of the process for redetermining an enrollee's eligibility for the program, the department shall establish a procedure that sends an email notice to the enrollee, or the parent or guardian of the enrollee, that the enrollee must redetermine eligibility for the program. The notice must be emailed at least thirty (30) days in advance of the regular mailing of any packet of materials for redetermination of eligibility. The email notice is required only when the department has an email address for the enrollee or the parent or guardian of the enrollee.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.



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House Health Subcommittee Am. # 2

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 2312*

House Bill No. 2608

by removing the second sentence of the amendatory language of Section 1.

FILED

Date _____

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Clerk _____

Comm. Amdt. _____



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Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

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Comm. Amdt. _____

AMEND Senate Bill No. 2704

House Bill No. 2634*

by deleting all of the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 63-6-245(b), is amended by deleting the subsection and substituting instead the following:

(b) If a physician has determined, after a mammogram is performed, that a patient has dense breasts or extremely dense breasts, based on the breast imaging reporting and data system established by the American College of Radiology, the facility where the mammogram was performed shall provide the following notice to the patient:

Your mammogram shows that you have dense breast tissue. Dense breast tissue is common. However, dense breast tissue can hide breast cancer, so that it may not be seen on routine mammography. It may also be associated with an increased risk of developing breast cancer. You should discuss these results with your doctor to determine if additional tests might be helpful. A report of your mammogram results, which contains information about your breast density, has been sent to your doctor's office.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.



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Amendment No. _____

Signature of Sponsor

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Date _____

Time _____

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Comm. Amdt. _____

AMEND Senate Bill No. 2362

House Bill No. 2219*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 33-2-413, is amended by adding the following as a new subsection:

(f) The department shall include in its annual inspection of each hospital licensed under this title a determination of the hospital's compliance with the reporting requirements of § 33-3-117. The hospital must document its compliance with a record of its communication with local law enforcement with respect to the commitments. A hospital's failure to comply with the reporting requirements shall subject the hospital to civil penalties or other action against the hospital's license under § 33-2-407.

SECTION 2. Tennessee Code Annotated, Section 68-11-210, is amended by adding the following as a new subsection:

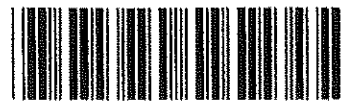
(f)

(1) When inspecting a hospital licensed, under this title, the department shall include in its inspection a determination of the hospital's compliance with the reporting requirements of subdivision (f)(2). The hospital must document its compliance with a record of its communication with local law enforcement with respect to the commitments. A hospital's failure to comply with the reporting requirements shall subject the hospital to civil penalties or other action against the hospital's license under this part.

(2)



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(A) If a patient is involuntarily committed to inpatient treatment at a hospital licensed under this title, the hospital shall report the service recipient to local law enforcement as soon as practicable, but no later than the third business day following the date of such commitment, who shall report the service recipient to the federal bureau of investigation-NICS Index and the department of safety as soon as practicable, but no later than the third business day following the date of receiving such notification, for the purposes of complying with the NICS Improvement Amendments Act of 2007, Public Law 110-180, as enacted and as may be amended in the future.

(B) If hospital is required to report pursuant to subdivision (2)(A), the hospital shall report the following information:

- (i) Complete name of the person involuntarily committed;
 - (ii) Date involuntary commitment was ordered;
 - (iii) Private or state hospital or treatment resource to which the individual was involuntarily committed;
 - (iv) Date of birth of the person involuntarily committed;
 - (v) Race and sex of the person involuntarily committed;
- and
- (vi) Social security number of the person involuntarily committed.

(C) The information in subdivisions (f)(2)(B)(i)-(vi), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353, and 39-17-1354.

SECTION 3. This act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2639

House Bill No. 1729*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 71-5-151, is amended by designating the existing language of the section as subsection (a) and adding the following as new subsections:

(b) In developing or implementing any payment reform initiative involving the use of episodes of care with respect to medical assistance provided under this chapter by the bureau of TennCare or the health care finance and administration (HCFA) of the department of finance and administration, the bureau and HCFA shall not impose a fine or penalty on any provider. The bureau and HCFA may impose withholds in order to recover some portion of costs that exceeds a cost threshold for an episode developed by the initiative. A withhold may not be called a fine or a penalty.

(c)

(1) The bureau of TennCare and the HCFA shall study the means of fair and just implementation of the episodes of care initiatives, especially with respect to costs associated with:

(A) A healthcare facility located in an area that lacks an alternative healthcare facility within a thirty-minute drive;

(B) Lack of more than a single provider of healthcare services for, including, but not limited to, radiology, anesthesia, pathology, or physical therapy; and



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(C) Contractual arrangements between the bureau of TennCare, managed care organizations, and other participating providers or healthcare facilities associated with the particular episode of care if such contracts are the cause of increased costs.

(2) No later than January 31, 2018, the bureau of TennCare and HCFA shall report the results of the study conducted pursuant to this subsection (c) to the health and welfare committee of the senate and the health committee of the house of representatives.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2025*

House Bill No. 2440

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Original prescription" means a prescription for a controlled substance from an authorized prescriber that is presented by the patient to the pharmacist or submitted electronically to the pharmacy; and

(2) "Partial fill" means a prescription filled in a lesser quantity than the amount specified on the prescription for the patient.

(b)

(1) A prescription for a controlled substance may be partially filled if:

(A) The partial fill is requested by the patient or the practitioner who wrote the prescription; and

(B) The total quantity dispensed through partial fills pursuant to subdivision (b)(1)(A) does not exceed the total quantity prescribed for the original prescription.

(2) If a partial fill is made, the pharmacist shall retain the original prescription at the pharmacy where the prescription was first presented and the partial fill dispensed.



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(3) Any subsequent fill shall occur at the pharmacy that initially dispensed the partial fill. Any subsequent fill shall be filled within thirty (30) days from issuance of the original prescription.

(c)

(1) If a partial fill is dispensed, the pharmacist shall only record in the controlled substance database the partial fill amount actually dispensed.

(2) If a partial fill is dispensed, the pharmacist shall notify the prescribing practitioner of the partial fill and of the amount actually dispensed:

(A) Through a notation in the interoperable electronic health record of the patient;

(B) Through submission of information to the controlled substance database;

(C) By electronic or facsimile transmission; or

(D) Through a notation in the patient's record that is maintained by the pharmacy, and that is accessible to the practitioner upon request.

(3) Nothing in this section shall be construed to conflict with or supersede any other requirement established in this part or title 53, chapter 10 or 11, for a prescription of a controlled substance.

(d) A person who presents a prescription for a partial fill pursuant to this section is required to pay the required cost sharing or copayment as required by the person's health insurance coverage for the partial fill of a prescription.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring

it.

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 1258

House Bill No. 630*

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 10, Part 3, is amended by adding the following as a new section:

The board shall promulgate rules regarding the board's oversight of facilities that manufacture, warehouse, and distribute medical devices. The rulemaking process shall begin no later than September 1, 2018. The rulemaking process shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall include the formation of an advisory committee, in accordance with § 4-5-205, composed of medical device industry representatives and a representative of the department of economic and community development. The rules promulgated pursuant to this section shall be reviewed every three (3) years for the purpose of reviewing the advancements of new medical device technologies.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.



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